

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA)
v.)
SOUTHERN UNION COMPANY,)
Defendant.)
Cr. No. 07-134 S

ORDER

WILLIAM E. SMITH, United States District Judge.

In an order dated April, 25, 2013, this Court determined the maximum penalty Southern Union faced in fines and community service was \$500,000. United States v. S. Union Co., Cr. 07-134 S, 2013 WL 1776028, at *2 (D.R.I. Apr. 25, 2013). Southern Union is now before the Court for re-sentencing. The Court announced the sentence from the bench; this order provides more details regarding the reasons for the sentence, including the community service obligations imposed on the Defendant.

The Court agrees with the Government that a 2 year term of probation and successful completion of an environmental compliance audit are appropriate. As this case wound its way through the appellate review process, Southern Union was sold, and currently has a different owner than it did when the underlying criminal conduct occurred. As a result, the Defendant suggests an environmental compliance audit is

unnecessary. An environmental compliance audit, however, will serve as a reminder to the company as it moves forward of the importance of continued compliance. The results of the compliance audit shall be submitted to the Court through the Office of Probation. Failure to meet the goals set forth in the audit may constitute a violation of probation conditions.

With respect to the financial penalty the Court believes the victims in this crime were the people of Rhode Island. As such, the Court will eschew a fine and instead orders Southern Union to make \$500,000 in community service payments, in order to have the most impact on those affected by the crime. The \$500,000 community service payment is to be distributed as follows:

- \$100,000 to the Rhode Island Department of Environmental Management ("RIDEM") for the capitalization of a technical assistance fund to assist community groups and others in dealing with the fallout from environmental pollution incidents such as the Tidewater mercury spill. This type of fund was referenced in the proposal submitted by the Environmental Justice League. The Court believes such a fund has merit, but should be administered by a public body such as the RIDEM.

- \$150,000 to the RIDEM for marine fish sampling and fresh water fish sampling as described in the RIDEM's letter of July 23, 2013.
- \$50,000 to the RIDEM for an education project dealing with contaminated urban run-off as described in the RIDEM's letter of July 23, 2013.
- \$50,000 to the RIDEM to assist in its green infrastructure demonstration project at Huntington Industrial Park in Providence as described in the RIDEM's letter of July 23, 2013.
- \$25,000 to the RIDEM to assist in its Earth Day clean-ups as described in the RIDEM's letter of July 23, 2013.
- \$100,000 to the Clean Water Fund for use in its mercury thermostats campaign and its fluorescent lamp campaign as described in its letter of July 24, 2013.
- \$25,000 to the City of Pawtucket Fire Department for the purchase of equipment related to hazardous material emergency response.

The Court will seek a commitment from the referenced recipients to appropriately segregate and utilize the funds for the projects described. The Office of Probation will ensure that Southern Union's community service payments are distributed

and dispersed in compliance with this order. Southern Union will have 90 days from the date of this order to complete its environmental compliance audit and satisfy its community service obligation.

IT IS SO ORDERED.

lsl William E. Smith

William E. Smith
United States District Judge
Date: November 12, 2013